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February 22, 2016

DELIVERY VIA REGISTERED MAIL, RETURN RECEIPT REQUESTED

To:

Commonwealth Edison Company
c/o Corporate Creations Network Inc.
Registered Agent
350 S Northwest Highway 300
Park Ridge, IL 60068
Phone: (773) 649-9240

Northern Illinois Gas Company doing business as Nicor Gas
c/o Illinois Corporation Service Company
Registered Agent
801 Adlai Stevenson Drive
Springfield, Il 62703-4261
Phone: (217) 492-2700

Exelon Corporation
c/o Corporate Creations Network Inc.
Registered Agent
350 S Northwest Highway 300
Park Ridge, IL 60068
Phone: (773) 649-9240

AGL Resources Inc.
c/o Paul R. Shlanta
Registered Agent
General Counsel
10 Peachtree Place, N.E.
Location 1466, Fulton
Atlanta, GA 30309
Phone: (302) 636-5401

Re: Amended Notice of Intent to Sue under RCRA, CERCLA, et al.

THIS IS TO NOTIFY YOU THAT:

1. The undersigned is counsel for, and serves this notice on behalf of:

   City of Evanston
   2100 Ridge Avenue
   Evanston, IL 60201
   (the "City" or "Evanston")

2. This Notice is issued to:

   Commonwealth Edison Company, an Illinois corporation, Illinois Secretary of State File No. 07636466 ("**ComEd**");

Exelon Corporation, a Pennsylvania Corporation, Pennsylvania Secretary of State File Number 2859390 ("**Exelon**");

Northern Illinois Gas Company, an Illinois corporation, Illinois Secretary of State File No. 50814173 ("**Nicor**"); and

AGL Resources Inc., a Georgia corporation, Georgia Secretary of State File Number K53433 ("**AGL**").

3. **ComEd** and **Exelon** are hereafter referred to collectively as the "**ComEd Companies**."

4. **Nicor** and **AGL** are hereafter referred to collectively as the "**Nicor Companies**."

I. INTRODUCTION

5. On information and belief, one or more of the ComEd Companies and Nicor Companies are the corporate successor to Northwestern Gas Light & Coke Company ("**NGLC**"). The corporate history of NGLC is described in **Attachment 1**[1].

6. This Notice pertains to the following waste disposal sites that may present an imminent and substantial endangerment to public health and the environment:

a. **First Endangerment - Disposal of Methane.** The presence of methane gas at high concentration and pressure around the perimeter of James Park in Evanston is caused by the escape of methane gas from operating and inactive gas distribution infrastructure owned and operated by the ComEd Companies or Nicor Companies, as described in (i) the Order issued on July 3, 2014 (the "Order") by Evanston's Fire Chief to ComEd and AGL, enclosed as **Attachment 2**, (ii) the January 30, 2015 report from David M. Hendron, PE, Senior Project Manager, SCS Engineer ("Hendron"), entitled "Opinion on the Source of the Occurrence of Petroleum and Gas in Monitor Wells and Borings in the James Park Area" (the "2015 Hendron Report"), enclosed as **Attachment 3**, and (iii) the February 10, 2016 report prepared by Hendron entitled "Sampling and Analytical Report for Dodge Avenue Water Main Replacement" (the "2016 Hendron Report"), enclosed as **Attachment 4**. See Section II, below

b. **Second Endangerment - Methane Created by the Disposal and Degradation of MG Waste Oils.** The presence of methane gas at high concentration and pressure in and around James Park is created as a byproduct of the biodegradation or digestion of oil, tar

[1] The enclosed CD-ROM contains this letter and the referenced Attachments as an Acrobat PDF file. The PDF file is bookmarked for ease of navigation.

and petroleum materials (hereafter "MG Waste Oils"[2]) produced by the former Skokie Manufactured Gas Plant (hereafter the "Skokie MGP") and conveyed by gas distribution infrastructure associated with the Skokie MGP, including Unidentified 24-Inch Pipes located in Oakton Street and Dodge Avenue, that are owned and operated, or were owned and operated, by the ComEd Companies or Nicor Companies, as described in the 2015 and 2016 Hendron Reports, Attachments 3 and 4, respectively. See Section III, below. The City is informed and believes that NGLC, and its successors, owned and operated the Skokie MGP from approximately 1910 to 1950.

c. **Third Endangerment - Contamination of Soil, Groundwater, Atmosphere and Drinking Water Caused by Disposal of MG Waste Oils**. MG Waste Oils are present in soil and groundwater in and around James Park, and, specifically appearing as a crustaceous coating ("black crust") on a potable water line running along Dodge Avenue in Evanston (the "Dodge Avenue Water Line") which (1) threatens to penetrate the Dodge Avenue Water Line and contaminate drinking water with constituents of MG Waste Oils and which (2) has in fact penetrated the Dodge Avenue Water Line and released constituents of MG Waste Oils to the drinking water therein, specifically fluoranthene and phenanthrene, as described in (i) the 2015 Hendron Report, Attachment 3, (ii) the September 25, 2015 correspondence to Ms. Susan Hedman, then Region 5 Administrator (the "Hedman Letter"), enclosed as **Attachment 5,** (iii) the 2016 Hendron Report, (iv) the email addressed to Leveret Nelson, Regional Counsel, U.S. EPA Region 5 dated February 12, 2016 (the "Nelson Email"), enclosed as **Attachment 6**, and (v) Table 1, "Drinking Water and Internal Pipe Crust Results - Detected VOCs and SVOCs Water and Internal Crust Samples from Sites Near Dodge Avenue Water Main Replacement Project" and associated Laboratory Reports (the "Drinking Water Data"), enclosed as **Attachment 7**. See Section IV, below

II. FIRST ENDANGERMENT – DISPOSAL OF METHANE GAS

7. James Park is owned by the City and is located at Oakton Street and Dodge Avenue. James Park has a playground for children, eight baseball fields, five soccer/football fields, toboggan hill, six tennis courts, a basketball court, field house and public gardens. For the location of James Park, see Order, Attachment 10, Boring Locations. See also http://cityofevanston.org/parks-recreation/parks/

[2] The oils used, and the wastes produced, at the Skokie MGP, and oils, contaminants and impurities entrained in the gas manufactured and distributed from the Skokie MGP, are referred to variously as Lowe Process Waste Oil (after the "Lowe (Williamson)" process), "carbureted water gas", "tar" and "coal tar", among others. *See* 2015 Hendron Report, Attachment 3. This Notice letter will refer to these substances, and substances entrained in the manufactured gas produced at the Skokie MGP, as "Manufactured Gas Waste Oils" or "MG Waste Oils". This letter will also refer specifically to Lowe Process Waste Oil when appropriate.

8. Dawes Elementary School is located at 440 Dodge Avenue in Evanston, operated by Evanston/Skokie School District 65, and enrolls approximately 375 students in kindergarten through the fifth grade. For the location of the Dawes Elementary School, see Order, Attachment 10, Boring Locations. See also http://dawes.district65.net

9. The Levy Senior Center is located at 300 Dodge Avenue, operated by the City, and offers social services and programs for seniors, including exercise classes and lunch programs. For the location of the Levy Senior Center, see Order, Attachment 10, Boring Locations. See also http://cityofevanston.org/parks-recreation/levy-senior-center/

10. From approximately the 1890's until the early 1940's clay was mined from the area now known as James Park. From approximately the 1940's until 1965 the clay mining excavation was filled with what is believed to be non-putrescible solid waste (the "James Park Landfill" or "JPL").

11. In November 2012, the Metropolitan Water Reclamation District of Greater Chicago ("MWRDGC") detected methane gas in high concentration (86%) in boring B-11, located to the southwest of the JPL. For the location of boring B-11 in relationship to the JPL, see Order, Attachment 10, Boring Locations. See also August 12, 2014 Memorandum from Thomas Rivera, Illinois Environmental Protection Agency ("IEPA"), enclosed as **Attachment 8** (methane gas encountered in boring B-11 at a concentration of 100% and at pressure that filled a black garbage bag in less than one minute). On November 29, 2012, the MWRDGC advised the City that the James Park Landfill was purportedly the likely source of the methane gas detected in boring B-11. A copy of the November 29, 2012 letter is enclosed as **Attachment 9**.

12. On May 14, 2014, the City informed Nicor that methane gas had been detected at high concentration and pressure at James Park and that a natural gas transmission line may be the source. Nicor was informed that methane gas was detected at a static pressure of 300 inches in GMP10, a pressure much higher than typically found inside a landfill. GMP10 is located directly east of Dawes School. See Order, Chronology, May 13, 2014, and Attachment 10 for the location of GMP10.

13. The City continues to measure methane gas in high concentrations and pressure in four gas monitoring wells located around the perimeter of James Park, in GMP1 (87%), GMP10 (87%), GMP 19 (85%) and GMP11 (82%). See Boring Map for James Park dated August 18, 2014, Figure 2, enclosed as **Attachment 10** and the 2015 Hendron Report, Attachment 3. GMP1 is located at the southwest corner of James Park. GMP10, GMP19 and GMP11 are all located in close proximity to Dawes School. GMP19 is located less than 20 feet from the entrance to the School.

14. Methane gas at the concentrations and pressures detected around the perimeter of James Park and in close proximity to the Dawes Elementary School and Levy Senior Center may present an imminent and substantial endangerment to human health or the environment, within the meaning of 42 U.S.C. § 6972(a)(1)(B). For current

references on some of the hazards resulting from leaking natural gas conveyance lines, see:

a. Combined NBC News and USA Today Investigation, "Hidden Danger" that aired on September 22, 2014, on the risk of explosion presented by deteriorating cast iron gas distribution lines.
b. September 22, 2014 USA Today report, "Look out below: Danger Lurks Underground From Aging Gas Pipes," enclosed as **Attachment 11.**
c. September 29, 2010 New York Times article, "California: Death Toll Rises To 8 In Pipeline Explosion [San Bruno, Calif.]", enclosed as **Attachment 12.**
d. April 2, 2014 New York Times article, "California Utility Indicted on 12 Federal Criminal Charges in 2010 Gas Pipeline Explosion", enclosed as **Attachment 13.**

15. On May 28, 2014, the City advised Nicor that, according to the United States Environmental Protection Agency ("USEPA"), the typical concentration of methane in landfill gas is in the range of 45% - 60%, which means a natural gas pipeline, not the James Park Landfill, is the more likely source of the methane gas detected at concentrations in excess of 85% around the perimeter of James Park. See Order, Chronology, May 28, 2014 and attachments, and USEPA website referenced therein.

16. The Order directed Nicor to, *inter alia*, (1) provide the City with documentation with respect to natural gas distribution pipelines that Nicor historically operated, or presently operates, in the vicinity of James Park, and (2) undertake an assessment of whether those structures are the source of the methane gas at issue.

17. On July 29, 2014, Nicor advised the City that it would not comply with the Order, claiming that the James Park Landfill, not its gas distribution lines, is the source of the methane gas detected at high concentration and pressure around the perimeter of James Park. See July 29, 2014 letter from Nicor to the City, enclosed as **Attachment 14.**

18. Since May 2014, the City's Fire and Life Safety Services has been monitoring methane gas as a percentage of its lower explosive limit in the basements of Dawes Elementary School, the Levy Senior Center and other locations.

A. CONTRIBUTOR TO THE ENDANGERMENT PRESENTED BY DISPOSAL OF METHANE GAS – GAS LEAKAGE

19. On information and belief, the documentation with respect to natural gas distribution pipelines that Nicor historically operated, or presently operates, in the vicinity of James Park reflects that they were installed in the early part of the twentieth century, or earlier, and were constructed of cast iron. See Order, Chronology, February 16, 1910, April 22, 1910, January 23, 1911, August 20, 1969 and December 17, 1969,

and attachments referenced therein (describing cast iron gas distribution pipes installed in the vicinity of James Park by NGLC or Nicor under the North Shore Channel and along Oakton Street).

20. Nicor has publicly acknowledged that its cast iron gas distribution pipes are prone to leakage, endanger public safety, and must be replaced within the next four years. Nicor has developed a "Qualified Infrastructure Plan" and "Distribution Integrity Management Program" which, according to Nicor, are "designed to, among other things, identify threats, evaluate and rank risks, and to identify and implement measures to address risks." See Northern Illinois Gas Company d/b/a Nicor Gas Company, Application for Approval of a Tariff pursuant to Section 9-220.3 of the Public Utilities Act, April 7, 2014, Case Number: 14-0292, enclosed as **Attachment 15**. See also Northern Illinois Gas Company d/b/a Nicor Gas Company, Application for Approval of a Tariff pursuant to Section 9-220.3 of the Public Utilities Act, Illinois Commerce Commission Case No. 14-0292, Final Order (July 30, 2014), p. 4, enclosed as **Attachment 16**.

21. The James Park Landfill, which closed in 1965 and did not receive putrescible waste, is not the cause of the methane gas at issue, which is detected at (a) concentrations in excess of 85%, (b) at a static pressure of up to 300 inches, and (c) in the vicinity of Nicor's aged cast iron gas distribution pipelines, which (d) Nicor admits are prone to leakage, endanger public safety and must be replaced.

22. On information and belief, as of July 29, 2014 when it refused to comply with the Order, Nicor knew or should have known that the source of the methane gas at issue is leakage from its aged gas distribution line(s) in the vicinity of James Park, not the James Park Landfill.

23. Leakage from aged gas distribution line(s) in the vicinity of James Park presents an imminent and substantial endangerment to public safety, specifically occupants, visitors, guests, teachers, parents, students and seniors at James Park, Dawes Elementary School and Levy Senior Center.

24. Hendron conducted an analysis (see 2015 Hendron Report, Attachment 3) to confirm the source of the methane gas at issue. Hendron evaluated the following three sets of data:

a. Comparison of pressure and concentrations of methane taken from wells around the perimeter of James Park with the pressure and concentrations of methane in monitor wells installed in the JPL;

b. Comparison of the detailed chemistry from samples taken from wells around the perimeter of James Park with the detailed chemistry of samples taken from wells in the JPL, to determine whether the chemistry of the perimeter samples is consistent with landfill gas; and

c. Comparison of the relative age of samples taken from wells around the perimeter of James Park with the relative age of samples taken from wells in the JPL, to determine whether the age of the gas in the perimeter wells is similar to the age of the gas taken from the wells in the JPL.

25. All three data sets confirm that leakage from gas pipeline(s), or the degradation of MG Waste Oils into methane, and not the JPL or natural geologic conditions, are the sources of the methane gas at issue.

1. Comparison of Methane Concentrations and Pressure

26. Methane gas is found in high concentrations and pressure in wells installed around the JPL. Additional wells were installed around the perimeter of James Park near wells exhibiting methane at high concentrations and pressure. Two wells were installed in waste, GMP18 and GMP17, as close as possible to those perimeter wells exhibiting methane at high concentrations and pressure, GMP10 and GMP1.

27. If the JPL were the source of the methane gas at issue, methane should be present at comparatively high concentrations and pressure in GMP17 and GMP18. The concentrations and pressures measured in the wells installed in the JPL are in fact *several orders of magnitude less* than those measured in the wells installed around the perimeter of James Park. The methane concentration and pressure data confirms that the methane gas at issue is caused by leakage from gas pipeline(s), or the degradation of MG Waste Oils into methane, and not the JPL.

2. Detailed Chemistry

28. Chemistry tests were performed on samples taken from wells around the perimeter of James Park and from the two wells installed in the JPL. If the JPL were the source of the methane gas at issue, the "chemical fingerprint" of gasses found in the two sets of chemistry data should be consistent with each other.

29. The contrast between the "chemical fingerprint" of the gas in the JPL and the gas around the perimeter of James Park confirms that the methane gas at issue is caused by leakage from gas pipeline(s), or the degradation of MG Waste Oils into methane, and not the JPL.

3. Relative Age Dating of Methane Gas Using Carbon 14 Testing

30. In addition to the detailed chemistry testing of gasses from wells installed on the perimeter of James Park and in the waste in JPL, isotopic and Carbon 14 ("C14") testing was performed on separate samples from these wells.

31. The C14 testing confirms that gasses collected from the wells installed around the perimeter of James Park *are orders of magnitude older* than gasses collected from waste within the James Park Landfill. The analysis of the age data also confirms that the methane gas at issue is caused by leakage from gas pipeline(s), or the degradation of MG Waste Oils into methane, and not the JPL.

4. Gas Pipelines in the Vicinity of James Park

32. At a meeting on June 2, 2014, the City provided Nicor with an overview of data relating to the JPL. The City requested that Nicor produce documents describing the tunnel constructed under the North Shore Channel in 1910 and other gas pipelines in the vicinity of the JPL, which Nicor agreed to do.

33. Since the June 2, 2014 meeting with Nicor, the City has identified the location of other gas lines in the vicinity of the JPL, apart from the 1910 Tunnel:

a. An Unidentified 24-inch gas pipe 5 feet below the surface of the Channel, *circa* 1968. See November 11, 1968, Drawing 2 of 4, prepared by the Northern Illinois Gas Company, enclosed as **Attachment 17.**

b. A 48" abandoned gas main located approximately 300 feet west of GMP1 and GMP1A. See Mulford Street Sewer Plan and Profile, Drawing No. 5221D-RS26 R1, dated February 1991. See **Attachment 18** hereto depicting location of "48" Exist. Gas Main (Abandoned)" and **Attachment 19** hereto depicting the location of the abandoned gas main in relation to GMP1.

c. Another channel/tunnel crossing due west of the 48" abandoned gas main at Mulford Street. See **Attachment 19** hereto, depicting the location of the tunnel/channel going to the MWRDGC system. On information and belief, the 48" main is of the type that would have been used in the early twentieth century to convey methane gas at low pressure, such as the methane produced by the Skokie MGP located west of the channel and the crossing at Mulford Street.

d. Evanston's Water Division has observed an Unidentified 24-inch Pipe along Dodge Avenue. See **Attachment 20** hereto, depicting a length of pipe as a blue line, running north and south along Dodge Avenue. See also 2015 and 2016 Hendron Reports, Attachments 3 and 4, respectively, confirming the location of the Unidentified 24-Inch Pipe at three locations in Dodge Avenue and one location in Oakton Street.

34. Hendron concluded that the JPL and natural geologic conditions are not the source of the methane at high pressure and concentration in and around James Park. Hendron further concluded the leakage of methane from Leakage of natural gas from existing and abandoned natural gas pipelines in the vicinity of James Park, or the degradation of MG Waste Oils into methane, are the sources of the methane. See 2015 Hendron Report, Attachment 3

III. SECOND ENDANGERMENT - METHANE CREATED BY THE DISPOSAL AND DEGRADATION OF MG WASTE OILS

35. The Lowe Process, the process employed at the Skokie MGP, produces an oily waste with a relatively low viscosity (the waste is very liquid). The Lowe Process waste oil is also dense (heavy). The combination of low viscosity and high specific gravity (density) allows the oil to travel through soil, clay, groundwater and bedrock.

36. Due to its low viscosity (liquidity) and high density (weight), it only takes between a few years to approximately two decades for Lowe Process waste oil to travel through glacial tills and groundwater to reach bedrock.

37. At least three distribution lines are located in the vicinity of James Park which historically transported manufactured gas from the Skokie MGP: (1) a 48" gas line located immediately south of James Park (the "Abandoned Gas Line"), (2) a tunnel constructed in 1910 by NGLC under what was known as the North Shore Channel, located to the west of James Park and then running along Oakton Street immediately north of James Park (the "1910 tunnel") and (3) the Unidentified 24-inch Pipes encountered in three locations in Dodge Avenue and one location in Oakton Street during the Dodge Avenue Work (as hereafter defined in ¶ 40, below). See 2016 Hendron Report, Attachment 4, Figure 1, "Dodge Avenue Utilities and Sample Locations" (four instances where the Unidentified 24-inch Pipe was encountered appear as red dashed lines)

38. In August 2014, Hendron observed work that was being performed by the City's Water Division on the west side of Dodge Avenue at Kirk Street to repair a water line break ("2014 Excavation") that had occurred at the intersection of Mulford Avenue, in the vicinity of Dawes Elementary School and Levy Senior Center (the "Dodge Avenue Water Line"). See Attachment 15 hereto, depicting, in blue shading, the location of the August 12, 2014 excavation. The Dodge Avenue Water Line conveys potable water to residents of the City.

39. The Dodge Avenue Water Line is approximately 5 feet below the location of a 12-inch diameter gas pipeline. The Water Division has had to repair numerous breaks in the Dodge Avenue Water Line. The Dodge Avenue Water Line beneath the gas pipeline has become coated with a black crust. This condition is present at multiple locations along Dodge Avenue. See Attachments 20 and 21 hereto, depicting the locations where the gas pipeline has been encountered since at least 2004. See also **Attachment 20** hereto, depicting, in purple shading, the location where the gas pipeline was observed during the 2014 Excavation. Photographs of the August 2014 excavation, black water in the bottom of the excavation, the water pipe and the black crust are enclosed as **Attachment 22**.

40. The City was scheduled to replace a portion of the Dodge Avenue Water Line in August 2015 (the "Dodge Avenue Work"). This work presented an opportunity for Hendron to locate the Unidentified 24-inch Pipe(s) and further investigate the disposal of MG Waste Oils in Dodge Avenue, specifically the release of MG Waste Oils from the

Unidentified 24-inch Pipe(s) and other gas distribution infrastructure associated with the Skokie MGP. Prior to commencing the Dodge Avenue Work, on June 17, 2015, Nicor, ComEd and the City entered into an "Evidence Preservation Agreement – City Water Main Project", enclosed as **Attachment 23**. The Evidence Preservation Agreement provided, among other things, for the observation of the Work by Nicor and ComEd and sharing of split samples. The City provided Nicor and ComEd with the 2015 Hendron Report before the Work commenced. Nicor and ComEd collected a split of each sample Hendron collected. Since the Fall of 2015, when Nicor and ComEd received the laboratory analyses of their split samples, if not before, Nicor and ComEd have had the same data contained in the 2016 Hendron Report, and have known that MG Waste Oils not only coat, but have penetrated, the Dodge Avenue Water Line.

41. The following facts, confirmed in the 2015 and 2016 Hendron Reports, Attachments 3 and 4, respectively, demonstrate that that the Unidentified 24-Inch Pipelines in Dodge Avenue and Oakton Street are the source of the black coal tar crust (black crust) on the outside and inside of the Dodge Avenue Water Line:

a. The Water Division has historically encountered the Unidentified 24-inch Pipe encrusted with black crust when performing repairs on the Dodge Avenue Water Line. The Dodge Avenue Work confirmed the Unidentified 24-inch Pipe is present in at least four locations in Dodge Avenue and Oakton Street, approximately five feet above the Dodge Avenue Water Line. See 2016 Hendron Report, Attachment 4, Figure 1, "Dodge Avenue Utilities and Sample Locations" (four instances where the Unidentified 24-inch Pipe was encountered is marked in red dashed lines)

b. On information and belief, the Unidentified 24-inch Pipe extends along Dodge Avenue north from Oakton Street as far south as Howard Street, and perhaps beyond. On information and belief, the Unidentified 24-inch Pipe extends west along Oakton Street from Dodge Avenue to the Skokie MGP.

c. There is a perfect match between the compounds detected in the black crust on the Unidentified 24-inch Pipe and compounds known to be present in MG Waste Oil. *See e.g.* 2016 Hendron Report, Attachment 4, Table 4, "Summary of Detected Soil Semi-Volatile Organic Compound Analytical Results," Exterior Pipe Crust Sample 78+95+4E/4 (third highest concentration of Benzo[a]Pyrene, a constituent of MG Waste Oil, was detected along the bottom of the exposed Unidentified 24-inch Pipe) See also **Attachment 24**, Table 1 extracted from the 2015 Hendron Report, Attachment 4 and a magnified view of Exterior Pipe Crust Sample 78+95+4E/4 depicted in Figure 1. See also 2015 Hendron Report, Attachment 3, Table 3, "Table 2 Comparison of Black Crust SVOCs with a List of Coal Tar Compounds Typically Found at MGP Sites by the NYSDEC and USEPA and With Compounds Actually Found at the Skokie MGP Site Near James Park"

d. Soil samples taken during the Dodge Avenue Work confirm that soil between the Dodge Avenue Water Line and the Unidentified 24-inch Pipe is stained black, similar in appearance to the color of the black crust, and contains the same contaminants found in MG Waste Oil. *See* 2016 Hendron Report, Attachment 4, Tables 3 and 4 See also 2015 Hendron Report, Attachment 3, Table 3, "Table 2 Comparison of Black Crust SVOCs with a List of Coal Tar Compounds Typically Found at MGP Sites by the NYSDEC and USEPA and With Compounds Actually Found at the Skokie MGP Site Near James Park

e. Black groundwater was observed oozing into GMP10, which is located immediately west of the August 2014 excavation. Laboratory analysis of the groundwater revealed the same compounds found in the analysis of the black crust. See 2015 Hendron Report, Attachment 3, Figure 6, Photograph of Water Removed from GMP-19Ss.

42. The Skokie MGP, by means presently unknown, leaked MG Waste Oil into the environment, including soil, groundwater and bedrock, which may have migrated towards and into James Park and surrounding areas.

43. MG Waste Oils, by means presently unknown, escaped from the gas distribution infrastructure associated with the Skokie MGP. On information and belief, the infrastructure associated with the Skokie MGP, including, but not limited to, a 48" gas line, the 1910 Tunnel and the Unidentified 24-inch Pipe, contained traps, meters, valves, vaults and other structures that collected MG Waste Oils, in the form of condensate, from gas manufactured by the Skokie MGP. On information and belief, MG Waste Oils were released into the environment from these traps, meters, valves, vaults and other structures that collected MG Waste Oil condensate.

44. MG Waste Oils are present in soil, groundwater and bedrock in and around James Park, including Dodge Avenue and Oakton Street. MG Waste Oils have been observed as a coating ("black crust") on the Dodge Avenue Water Line and the Unidentified 24-inch Pipe encountered during the Dodge Avenue Work at three locations in Dodge Avenue and one location in Oakton Street.

45. As result of this disposal of MG Waste Oils, both at the Skokie MGP and from the gas distribution infrastructure associated with the Skokie MGP (including the Unidentified 24-inch Pipe encountered in Dodge Avenue and Oakton Street during the Dodge Avenue Work), MG Waste Oils have biodegraded into methane gas (a Contaminant) that is present at high pressure and concentration in and around James Park, including the Dawes Elementary School and Levy Senior Center.

III. THIRD ENDANGERMENT – CONTAMINATION OF SOIL, GROUNDWATER, ATMOSPHERE AND DRINKING WATER CAUSED BY THE DISPOSAL OF MG WASTE OILS

46. The Dodge Avenue Work revealed that the Dodge Avenue Water Line is coated with MG Waste Oils, in the form of a black crust. See 2015 Hendron Report, Attachment 4.

47. The MG Waste Oils coating threatens to penetrate the Dodge Avenue Water Line and contaminate the City's drinking water.

48. MG Waste Oils have penetrated the Dodge Avenue Water Line and contaminated the City's drinking water with constituents of MG Waste Oils, including fluoranthene and phenanthrene. *See* (i) the 2015 Hendron Report, Attachment 3, (ii) the Hedman Letter, Attachment 5, (iii) the 2016 Hendron Report, Attachment 4, (iv) the Nelson Email, Attachment 6, and (v) Drinking Water Data, Attachment 7.

III. CONLUSION

49. On information and belief, the handling, storage, treatment or disposal of solid or hazardous waste, namely natural gas and MG Waste Oils, has caused hazardous substances to be present in soil, groundwater and atmosphere in James Park, Oakton Street, Dodge Avenue and other areas.

50. On information and belief, methane gas is present in concentrations and pressure (greater than 85% methane and at static pressure as high as 300 inches) that presents a risk of a catastrophic explosion, and may present an imminent and substantial endangerment to human health and the environment.

51. On information and belief, methane gas is present at high concentration and pressure as a consequence of an historic release, or ongoing release, of natural gas from infrastructure associated with the distribution of natural gas that was owned and operated by ComEd Companies or Nicor Companies or is owned and operated by ComEd Companies or Nicor Companies.

52. On information and belief, the presence of methane gas at high concentration and pressure is caused by the disposal of MG Waste Oils, by ComEd Companies and Nicor Companies, that has biodegraded into methane gas.

53. On information and belief, as a consequence of the disposal activities of MG Waste Oils by the ComEd Companies and Nicor Companies, the Dodge Avenue Water Line is coated with MG Waste Oils (a black crust) that threatens to penetrate the Water Line and contaminate drinking water in the City of Evanston.

54. On information and belief, as a consequence of the disposal activities of MG Waste Oils by the ComEd Companies and Nicor Companies, the Dodge Avenue Water Line is coated with MG Waste Oils (a black crust) that has penetrated the Water Line and contaminated drinking water in the City of Evanston with constituents of MG Waste Oils, including fluoranthene and phenanthrene.

55. On information and belief, the disposal of MG Waste Oils has caused levels of hazardous substances to be present (a) in groundwater in excess of

groundwater remediation objectives established by IEPA, (b) in soil in excess of soil remediation objectives established by IEPA, and (c) above construction worker exposure standards established by IEPA, and may present an imminent and substantial endangerment to human health and the environment.

56. On information and belief, byproducts of VOCs and SVOCs in soil and groundwater at levels exceeding IEPA soil, groundwater and construction worker standards, may also present an imminent and substantial endangerment to public health and the environment.

a. VOCs and SVOCs in soil and groundwater may volatilize and migrate into the subsurface structures (*e.g.*, vaults and utility corridors), aboveground structures (*e.g.* the Dawes Elementary School and Levy Senior Center) and the atmosphere. See, *e.g.*, 35 IAC §§ 742.310 and 742.312 (Outdoor and Indoor Inhalation Exposure Routes, respectively)

b. The VOCs and SVOCs, such as benzo[a]Pyrene, may degrade into compounds that are also toxic and hazardous.

c. VOCs and SVOCs, including petroleum, may be digested by organisms, through a process known as anaerobic methanogenesis, to form volatile and possibly combustible gases, such as methane.

57. On information and belief, hazardous substances are present in the MG Waste Oils at levels in excess of soil saturation levels (abundant levels of free product) and in excess of soil remediation objectives established by the IEPA, and may present an imminent and substantial endangerment to human health and the environment.

58. On one or more occasions, the particulars of which are not presently known to the City, but occurring as early as 1910 and as recently as the present, one or more of the persons or entities to whom this Notice is directed has caused or allowed the release of a solid or hazardous waste or hazardous substances within the meaning of the Resource Conservation and Recovery Act ("RCRA"), 42 U.S.C. § 6901, *et seq.* ("RCRA") and the Comprehensive Environmental Response, Compensation and Liability Act, 42 U.S.C. § 9601, *et seq.* ("CERCLA"), respectively, into the soil and groundwater of James Park, Dodge Avenue and other locations in Evanston.

59. As a result of such releases, soils, groundwater and the atmosphere at James Park, Dodge Avenue and other locations in Evanston have become contaminated by, or are threatened to be contaminated by, solid or hazardous wastes or hazardous substances.

60. The parties to whom this Notice is directed have contributed or are contributing to the past or present handling, storage or disposal of substances which are solid waste or hazardous waste, within the meaning of RCRA.

61. The presence of the described unconfined waste disposal sites, and the contamination of the soils, groundwater and atmosphere at James Park, Dodge Avenue

and other locations in Evanston, and drinking water within the City, may present an imminent and substantial endangerment to human health or the environment, within the meaning of 42 U.S.C. § 6972(a)(1)(B).

62. The City intends to file suit against each of the persons and entities to whom this Notice of Intent to Sue is directed pursuant to Section 7002(a)(1)(B) of RCRA, 42 U.S.C. § 6972(a)(1)(B), as well as under applicable common law and equity.

63. The City has incurred necessary response costs, within the meaning of CERCLA, including, but not limited to (a) the cost of the 2015 and 2016 Hendron Reports, Attachments 3 and 4, respectively, and (b) the cost of the City's Fire & Life Safety Services monitoring of methane gas in the basements of Dawes Elementary School, the Levy Senior Center and other locations in Evanston.

City of Evanston

By: 

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